

REMARKS

Claims 1-3, 5, 6, 9-11, 13 and 14 have been rejected as obvious under 35 U.S.C. §103(a), over Reuven U.S. Patent No. 5,850,636 in view of Mitsumatsu et al., U.S. Publication No. US 2003/0185779. Applicant respectfully traverses this rejection for the following reasons.

Reuven is cited for teaching a heatable outer cap having a water impervious outer surface and sized to fit over the hair of a person. An inner liner is positioned for contacting the user's hair to help style the hair. It is noted that Reuven does not appear to disclose the use of its device for shampooing the user's hair, though it does list nine objects of the invention. One of the nine refers to hair oil treatments and another suggests it may replace a hood-type hair dryer. The inner liner is shown in Fig. 3 to be element 12, which is rubber and outer sublayers 14 are made of a cloth material, as noted on column 3, lines 50-56. There is no place in Reuven that discloses an inner liner directly in contact with the user's hair and have the capability of holding a hair cleaning compound. Independent claims 1 and 9 have been amended to include the limitation that the liner has the capability to hold a hair cleaning compound. Reuven does not. The Examiner has also noted that Reuven does not teach the use of a supercooled liquid as is set forth in the rejected claims. Independent claims 1 and 9 have also been amended to state that the heat source is located in the liner which contacts the user's hair. Reuven's heatable gel is between the inner and outer layer of the cap.

Mitsumatsu et al. has been cited as showing a hair conditioner and a heat source of a kind similar to that claimed herein. The Examiner has said that it would be obvious to provide the heatable cap of Reuven with the heat source of Mitsumatsu et al. Applicant respectfully traverses this combination of references.

Mitsumatsu et al. teaches a hair care kit, without showing or describing any structure other than to say that the components for hair care are in containers. It is believed that Example 10, paragraph 0263, is the only reference to a cap and that is, at best, simply a reference to the heating device being shaped as a cap and used with

a stimulating switch. There is no suggestion to put a heat source in a liner which is capable of holding a hair cleaning compound. A combination of Reuven with Mitsumatus et al. suggests a cap where the space between the interior and exterior layers of Reuven has a heat source from Mitsumatsu et al. There is no recognition that the liner be capable of holding a hair cleaning compound, nor that the liner hold the heat source and be in contact with the hair. Nothing in either reference suggests or makes obvious the structure recited in the amended claims.

The Examiner is requested to reconsider the combination of references, as being based on hindsight reasoning and not on the combined teachings of the references. Reuven does not even suggest a liner that can be used to contain a cleaning compound and has an inner liner that contains rubber (element 12, on both sides of the gel) and a cloth layer 14 that is on the outside of both the interior layer 22 and the exterior layer 24. Thus if cloth layer 14 is absorbent, the exterior of the cap is absorbent and is not water impervious. If 14 is water impervious, as claimed herein, then the inner layer is also water impervious. Fig. 3 clearly shows layer 14 on both interior layer 22 and exterior layer 24. Accordingly, Reuven does not teach applicant's cap without the heat source. It would not be obvious to replace the gel, which is in contact with the rubber layer 12 on both the interior and exterior of the cap, with a heat source that is administered by trained medical personal and limited to seven degrees above body temperature. Mitsumatsu et al. does not remedy the deficiencies of Reuven because that reference does not suggest placement of a heat source, even one as claimed herein, in the liner that is in contact with the hair and is capable of containing a hair cleaning compound. Allowance of the claims is earnestly solicited.

Claims 4 and 12 have been rejected under 35 U.S.C. § 103(a) on the above discussed references with the addition of Lebby et al. U.S. Patent No. 6,080,690. Lebby is cited as showing a temperature sensitive portion. While the specific mechanism of Lebby is somewhat more complicated than that taught by applicant, the concept of temperature is disclosed. Having acknowledged that, it is respectfully urged that Lebby in no way overcomes the deficiencies of the combination of references discussed above. Reconsideration and withdrawal of the rejection is requested.


Finally, claims 7, 8, 15 and 16 have been rejected under 35 U.S.C. § 103(a) on the first discussed Reuven and Mitsumatsu et al. references, further in view of Skiba et al. U.S. Patent No. 6,047,706. Skiba is cited for disclosing a cleaning compound in a liner. Skiba does teach an inner liner that is smaller than the outer liner and fastened to the outer liner only at the periphery. Skiba does not remedy the deficiencies of the primary reference combination and specifically does not teach modifying Reuven so that the inner liner and the outer liner are different from each other. It is respectfully requested that the Examiner reconsider the rejections and allow the claims.

If the Examiner considers this case ready for conclusion other than by allowance, he is respectfully requested to call applicants' attorney at the number listed below.

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Respectfully submitted,  
James A. Donovan

By his Attorney

  
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